IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Income Tax Appeal NO. 857 of 2000

The Commissioner of Income-tax .... Appellant.

vs.

M/s. Kesaria Commercial Enterprises Ltd. .. .. Respondents

A. K. Kotangale with Dr. P. Daniel for Appellant
None for Respondents.

CORAM: **S. RADHAKRISHNAN**
AND
A. S. AGUIAR JJ.

Date: 7/6/2005

ORAL JUDGMENT (Per S. Radhakrishnan J.)

1. Heard learned counsel for the Appellant.

2. By this appeal the appellant is seeking to raise the following question of law:

> "Whether on the facts and circumstances of the case, the Tribunal was justified in deleting the interest levied under sections 217 and 139(8) in re-assessment order by holding that the amended provisions of Section 215 and Section 139 relating to the definition of regular

assessment is not applicable to the case of the assessee?"

3. We have perused the Order dated 27th October 1999 passed by the Income Tax Appellate Tribunal, wherein it is clearly held that in case of re- assessment, there is no question of levying interest under sections 217 and 139(8) of the Income-tax Act, and the various judgments to that effect, referred to in the order of the Tribunal, one of them being upheld by the Supreme Court. Under the circumstances the appeal is dismissed.

S. RADHAKRISHNAN

A. S. AGUIAR